IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.4186/07
Dinesh Chand Vs. State of Raj. & Ors.

31.05.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri S.K. Saksena for petitioner.
Shri B.S. Chhaba, Deputy Government Advocate for State.

Issue notice. Shri B.S. Chhaba accepts notice on behalf of State.

Controversy raised in this case is squarely covered by the decision of Larger Bench in the case of Smt. Sameera Bano Vs. State of Raj. & Ors, D.B. Special Appeal (W) No.236/06, decided on 2.4.2007 wherein it was held as under:-

> "that a pre-election disqualification can be adjudicated only in an election petition before the District Judge under Section 43 of the Act

> read with rule 80 of the Election Rules and cannot be adjudicated by the authority under rule 23 of the Rules."

Following the view taken by the larger bench in Smt. Sameera Bano, supra, the writ petition deserves to be allowed and is accordingly allowed. The impugned notice dated 11.5.07 is quashed and set aside and the petitioner is held entitled to continue to hold the office of Up-Sarpanch, Gram Panchayat Devpuri, Panchayat Samiti Arain, Distt. Ajmer.

(Mohammad Rafiq),J.

Rs/-